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**Publish date:**

**WQC number: 898-4339-WQC-2**

## Public Notice

**Closing Date:**

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This letter serves as the formal notice of the receipt of an application for a Section 401 Water Quality Certification by the Kentucky Division of Mine Permits (KDMP). The purpose of this notice is to inform the public of active applications awaiting certification under Section 401 of the Clean Water Act (33 U.S.C. § 1341) and to solicit comments and information on any impacts to water quality as it related to the specific project. DMP will evaluate whether the project complies with Kentucky's water quality standards.

The comment period will run for 30 days, as is indicated in the upper portion of this notice. Any person who wishes to comment or receive information pertaining to the pending WQC application, must contact the WQC coordinator at 502 564-2320, or submit comments to: Water Quality Certification 2 Hudson Hollow, Frankfort KY 40601, within the 30 day comment period. All comments will be reviewed and water quality issues will be considered during the review process.

The public may review the detailed Compensatory Mitigation Plan at the Division of Mine Permits office at: #2 Hudson Hollow Frankfort, KY 40601

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**Commonwealth of Kentucky  
Department for Natural Resources  
Division of Mine Permits**

**Application for Water Quality Certification for Surface Coal Mining Activities**

The Clean Water Act Section 401 Water Quality Certification (WQC) program in Kentucky ensures that activities which may involve a discharge into waters of the Commonwealth which require federal permit or license are consistent with Kentucky's water quality standards in 401 KAR Chapter 5. The Energy and Environment Cabinet has authorized the Department for Natural Resources to issue water quality certifications related to surface coal mining operations. The project may not start until all necessary approvals are obtained. For questions concerning the WQC process, contact the WQC Coordinator at (502)-564-2320.

1. **Applicant Name:** Premier Elkhorn Coal Company  
**Mailing Address:** 6920 HWY 610 West  
Myra, Kentucky 41549  
**Contact Person:** Stacy Billiter  
**Telephone No:** (606)639-0933  
**E Mail Address:** N/A
2. **Consultant Name & Address:** Synergy Engineering Services, PLLC  
1904 South Mayo Trail Pikeville, KY 41501  
  
**Telephone No.** (606)433-0336  
**E Mail Address:** engineer@setel.com
3. **Provide a brief description of the proposed activity and stream impact.**  
This activity proposes methods of an underground mining operation located within Substation Hollow of Shelby Creek of Pike County. This operation will contain one instream embankment pond within jurisdictional waters. This application proposes approximately 17.25 acres of surface disturbance within the affected watershed.
4. **Project Location Information:**  
  
**County Pike;** USGS Quadrangle Name Jenkins East  
  
**Nearest Community & Road Intersection:** Elimer  
  
**Longitude** 37°14'19" **Latitude** 82°34'07" (Approximate center of the project area)
5. **List the names of all streams affected by the proposed project:**  
Unnamed tributary of Shelby Creek

6. For each affected watershed provide the acreage above the toe of the lowest permanent structure.

97.60 Acres

7. For each affected stream provide the linear feet of impact, whether the impact is temporary or permanent and indicate if the stream reach is classified as ephemeral, intermittent, or perennial.

405 linear feet of Intermittent stream impact (Temporary)

8. Provide the acreage of wetlands that would be impacted: 0

9. Beginning at the nearest intersection of two public roads, provide directions to the project site:

From the junction of US 23 and KY 805 at Dorton, KY proceed south on KY 805 approximately 3.2 miles to the intersection of KY 805 and Substation Hollow, proceed west onto the proposed haul road and approximately 0.65 miles to the underground mining area and related facilities.

10. Has application been submitted to the U.S. Army Corps of Engineers for this project? Yes X No \_\_\_\_ If yes, indicate type of application:

NW 12 \_\_\_\_ NW 14 \_\_\_\_ NW 21 \_\_\_\_ NW 27 \_\_\_\_ NW 49 \_\_\_\_  
NW 50 \_\_\_\_ Individual \_\_\_\_ Other 43

11. Provide the following permit numbers associated with this mining activity:  
SMCRA Permit No. 898-4339 NW KPDES No. KYG046336

12. The following attachments must be provided:

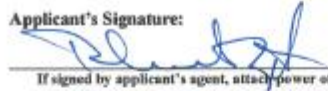
- a. A watershed map showing all ponds and hollowfills to scale with all intermittent, and perennial stream reaches clearly identified.
- b. A 7.5 minute topographic map delineating the proposed project area.
- c. A copy of the complete Compensatory Mitigation Plan

List all other plans and profiles included with this application:

- 1) Pond 1 \_\_\_\_\_
- 2) Detail Map of Affected Reaches \_\_\_\_\_
- 3) Location Map \_\_\_\_\_
- 4) Mine and Reclamation Plan Map \_\_\_\_\_

I hereby request approval for construction across or along a stream as described in this application and supporting attachments. All of the information provided with this application is true and accurate to the best of my belief and knowledge.

Applicant's Signature:



, Date: 2/17/12

If signed by applicant's agent, attach power of attorney

**SUBMIT APPLICATION AND ATTACHMENTS TO:**

**WQC COORDINATOR  
DIVISION OF MINE PERMITS  
#2 HUDSON HOLLOW  
FRANKFORT, KENTUCKY 40601**

### **Description of In-Lieu Fee Proposal**

Premier Elkhorn Coal Company proposes to use the in-lieu fee program for the impacts caused by this operation. The operation will construct one (1) excess spoil fill and one (1) in-stream embankment pond in the unnamed tributary to Shelby Creek near Threemile Branch in Pike County, Kentucky. This operation is approximately 2.67 miles south from KY RT 805's junction with KY RT 610 and located 1.92 miles north of Shelby Gap at the intersection of KY RT 805 with KY RT 197.

The stream reach for the impacted area has been assessed using the Eastern Kentucky Stream Assessment Protocol to determine the function and values for each. Field inspections have been conducted in order to complete the assessment data sheet for the impacted stream. These data sheets have been attached for review.

The length of the impacted jurisdictional waters, due to the placement of Pond 1, is 405 linear feet of intermittent stream along with 165 linear feet of sediment corridor that is being permitted as impacts. Field determination has been conducted by USACE for Hollowfill #1 and was determined that it is non jurisdictional. The impacted stream area has been assessed using the U.S. EPA's Rapid Bio-assessment Protocol (RBP) in order to determine the function and value of the stream which will be lost. The total EIU's lost for this operation is approximately 222.3. In-lieu fees will be provided for Embankment Pond 1 and the associated stream corridor. For this impact, Premier Elkhorn Coal Company plans to adopt the in-lieu fee payment rates by buying credits from the Kentucky Stream and Wetland Restoration Program for 222.3 EIU's worth of credits prior to the impact.